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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,662	08/25/2000	Hartmut Hillmer	2345/117	9226

26646 7590 11/21/2003

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EXAMINER	
ZAHN, JEFFREY N	

ART UNIT	PAPER NUMBER
2828	

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/555,662	HILLMER ET AL.	
	Examiner	Art Unit	
	Jeffrey N Zahn	2828	

--The MAILING DATE of this communicati n appears on the cover sheet with the c rrespondence address --

THE REPLY FILED 16 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 9/10/2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: 18-36.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Jeffrey N Zahn 11/18/2003

Paul Ip
SPE 2828

Claim Rejections - 35 USC § 112
The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
Regarding Claim 18, it is unclear what "deviation of wavelength" is being determined, i.e. between the two optoelectronic components or an optoelectronic component and the "desired characteristic wavelength". In addition, it is unclear how the "respective resistance" values are "selectively changed".
Regarding Claim 28, it is unclear how the wavelength tuning of the claimed device is accomplished with the recited claimed structure.

Claim Rejections - 35 USC § 103
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 28-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazemoto et al. (JP 59204292).
Regarding Claim 28, Hazemoto et al. discloses a device for the wavelength tuning of an optoelectronic component array (Abstract Fig.) having at least two optoelectronic components (A)(see also Abstract Fig. and Abstract), the device comprising:
a respective at least one resistance heater (B) associated with each of the at least two optoelectronic components (A's) for setting a respective characteristic wavelength (Abstract) of the respective optoelectronic component;
a common voltage or current source; (inherently the device disclosed in Hazemoto et al. includes a common ground)
a respective heater arrangement (Abstract Fig.)(B)(8) connected between each respective at least one heater and the common voltage o current source, (implied of the disclosure because connection to a power source is required to enable operation)
Hazemoto et al. does not disclose the "total resistance of each respective resistor arrangement being variable so as to allow for wavelength tuning." However, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hazemoto et al. to include variable resistance arrangements to vary the heat of the laser diodes and therefore the wavelength, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284 (CCPA 1954).
Regarding Claims 29-36, the particular claimed features are a matter of design choice since they do not solve any particular stated problem and they claimed invention will work with alternative/equivalent features known to one of ordinary skill in the art. Therefore, these claimed would have been obvious to one of ordinary skill in the art at the time of the invention.
Claim Rejections - 35 USC § 103
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 18-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazemoto et al. (JP 59204292) in view of Wakabayashi et al. (US 5373515).
Regarding Claim 18, Hazemoto et al. (JP 59204292) as discussed above in regards to Claims 28-36, inherently discloses the method of Claim 18 with the exception of "...comparing a respective measured wavelength of each of the at least two optoelectronic components wit a respective desired characteristic wavelength..." Wakabayashi et al. teaches the use of a wavelength controller, wavelength detector, reference light source and wavelength selective driver to control the wavelength of a laser. (Abstract; see also Fig. 2) It would have been obvious to one of ordinary skill in the art to modify Hazemoto et al. (JP 59204292) to include a reference wavelength/control system to control the wavelengths of the semiconductor elements to enable improved accuracy as taught by Wakabayashi et al. (Abstract)